

SUPERB ADVISORY COMMITTEE

2013 Annual Report

Purpose

This report is submitted to the General Assembly and the Department of Health and Environmental Control (DHEC) in order to fulfill the requirements of Title 44, Chapter 2 of the 1976 South Carolina Code of Laws, as amended. Specifically, Section 44-2-150(G) of the State Underground Petroleum Environmental Response Bank (SUPERB) Act requires the SUPERB Advisory Committee (the Committee) to submit an annual report that addresses the financial status and viability of the SUPERB Account and the SUPERB Financial Responsibility Fund (SFRF), the number of sites successfully remediated, the number of sites remaining to be remediated, and any statutory or regulatory changes the Committee recommends. In addition, this report contains information regarding the current status of the underground storage tank (UST) population in South Carolina.

The SUPERB Accounts

Federal regulations (enacted in 1988) require UST owners or operators to demonstrate financial responsibility for corrective action and third party liability at \$1,000,000 per leak occurrence. The South Carolina General Assembly created the SUPERB Account in 1988 to assist UST owners and operators in meeting the corrective action portion of the federal financial responsibility requirements, and the SFRF was legislatively created in 1993 to assist owners and operators in meeting the third party liability requirement. UST owners and operators are responsible for a \$25,000 deductible per UST leak occurrence, and they remain liable for costs above \$1,000,000.

A ½ cent environmental impact fee imposed on each gallon of petroleum entering the state funds the SUPERB Accounts. The Department of Revenue collects the fee under the authority of Section 12-28-2355. Impact fee revenue received during calendar year 2013 totaled \$19,075,989.18, and the total revenue received including impact fee revenue, tank fees, interest, and recovered funds totaled \$21,767,793.25 (Table 1). SUPERB payments during calendar year 2013 totaled \$18,332,165.87. As of December 31, 2013, a total of \$18,576,140.11 in SUPERB funds was committed through current contracts for site rehabilitation activities leaving an available SUPERB balance of \$4,223,334.74 (Table 1). The cumulative expenditures since 1988 total \$370,354,121.65.

Table 1. SUPERB Account information as of December 31, 2013

Impact Fee Revenue Received in Calendar Year 2013	\$ 19,075,989.18
Additional Tank Fee Revenue of \$200 Per Tank in 2013	\$ 2,307,586.36
Beginning Cash Balance January 1, 2013	\$ 19,363,847.47
Total Revenue Received in Calendar Year 2013	\$ 21,767,793.25
Total Available Calendar Year 2013	\$ 41,131,640.72
Total Payments from SUPERB in Calendar Year 2013	\$ 18,332,165.87
Cash Balance December 31, 2013	\$ 22,799,474.85
Commitments (Current Contracts)	\$ 18,576,140.11
Available for Commitment	\$ 4,223,334.74
Cumulative Spent Since 1988	\$ 370,354,121.65

SUPERB Financial Responsibility Fund (SFRF)

DHEC is currently aware of four (4) active third party claims or suits and actively participates in their resolution as allowed for in Section 44-2-40 of the SUPERB Act. A total of \$1,234,696.99 has been spent for claims, legal fees, and appraisal activities since the creation of this fund in 1993. As of December 31, 2013, the SFRF balance was \$1,026,772.44.

Financial Responsibility for the State Fund Deductible

The SUPERB Act requires that UST owners and operators demonstrate financial responsibility (FR) for \$25,000 per UST leak occurrence as the SUPERB Accounts provide the remaining required coverage. Allowable FR options include: self insurance, commercial insurance, insurance pool (risk retention group), guarantee, surety bond, letter of credit, trust fund, standby trust fund, and several local government options. Currently, sixty-four percent (64%) of UST facilities are covered by self-insurance, sixteen percent (16%) by letters of credit, seventeen percent (17%) by commercial insurance, three percent (3%) by local government options, less than one percent by surety bonds and trust funds, and the remaining facilities are in violation or new owners.

Cleanup Progress

Since the inception of the program and through December 31, 2013, DHEC has confirmed a total of 9,743 UST releases. Of these, 7,337 or about 75.3% have been closed. A total of 198 releases were closed in calendar year 2013; of these, 27 releases were closed under the regulatory program where no assessment activities were required, 59 releases were closed under assessment program where some assessment activities were completed, and 112 releases were closed under an approved Corrective Action Plan for either Monitored Natural Attenuation or Active Corrective Action. SUPERB funds were expended on 128 of the 198 releases. The remaining 43 release closures aside from the 27 regulatory closures were comprised of 25 release closures under the \$25,000 deductible and 18 release closures where SUPERB funds could not be used to provide coverage (e.g., site could not be qualified or another financial mechanism was in place). Pay for Performance contracts, often referred to as active cleanups, can take more than five years to complete. In order to foster quicker cleanups, current specifications for active corrective action sites now require the site rehabilitation work to be completed within five years unless DHEC provides written approval to extend the duration of the contract.

At year's end, there were 2,406 open releases, of which 2,372 are eligible to receive SUPERB funds. Confirmed releases are ranked by DHEC for funding priority according to the risk each poses. The priority system is outlined in the SUPERB Fund Access Regulations (R.61-98). Appendix 1 of this report depicts the total number of SUPERB eligible releases by their risk category and Appendix 2 depicts this number by county. Appendix 3 depicts the number of cases, by risk category, where rehabilitation activity is being funded and the number where no funding is provided.

As of December 31, 2013, 137 releases were in active cleanup, 182 releases were in limited cleanup

with free product removal activities being conducted, and 265 releases were being monitored as part of a formalized natural attenuation remedial plan. Assessment activities were being funded at another 935 sites. A total of 1,519 releases were receiving SUPERB funding at year's end. For the most part, site rehabilitation activities are funded by SUPERB or by the UST owner under the \$25,000 SUPERB deductible.

At year's end, fourteen (14) DHEC project manager positions were overseeing environmental assessment or cleanup efforts on 2,301 releases being worked with SUPERB funds or under the \$25,000 deductible. A project manager position in the Corrective Action Section was vacated in November 2013, and the Division is conducting interviews with the hope to have an offer extended prior to March 1, 2014, so that productivity is not limited. Once the existing vacancy is filled, fifteen (15) project managers will be providing oversight on the active UST releases.

Quality Assurance Program Plan

The UST Program Quality Assurance Program Plan (QAPP) was revised in April 2013 and was approved by the Environmental Protection Agency (EPA). The purpose of the QAPP is to ensure that all data produced and reported to the Department is scientifically valid, legally defensible, and of known and acceptable precision and accuracy. Between January 1, 2013 and December 31, 2013, 1,439 reviews of QAPP Addendums were completed. Since implementation of the QAPP, UST Program staff has worked closely with contractors to facilitate the review process. Based on experience and feedback from contractors, the latest revision of the QAPP includes changes designed to streamline the process and improve efficiency of implementation. The QAPP Addendum submitted by contractors for each scope of work was revised to eliminate potentially duplicative information, reducing the size of that document (originally about 25 pages) by about 25 percent. In November 2013, the Division began requesting that contractors submit a comprehensive QA Plan including Standard Operating Procedures that will be approved and revised on an annual basis in conjunction with renewal of each contractor's certification. Once the annual contractor QA plan has been approved, the contractor is only required to submit a two-page work plan with a few attachments for each scope of work. In June 2013 a full time Quality Assurance officer was hired by the UST Management Division to take over management of the QAPP and to oversee the review and approval of the annual contractor QA plans.

Underground Storage Tank Information

Since 1986, there have been 45,867 petroleum USTs registered with DHEC. Of those, 33,244 have been removed from the ground or properly closed in place. As of December 31, 2013, there were 11,749 operating USTs at 4,147 locations across the state owned by 2,105 individuals or companies.

On a quarterly basis, EPA requires reporting on the UST compliance rate for both release prevention and release detection, commonly referred to as the combined significant operational compliance (SOC). DHEC reported that 76% of the approximately 3,738 UST facilities inspected during 2013 met both the release prevention and release detection requirements and were in significant

operational compliance (SOC). The overall compliance rate for 2013 has decreased to 76% from the previous year's report of 77%. The SOC rate is affected by many factors including; tank population fluctuation, rate of inspections performed, increased inspector knowledge/efficiency, and tank owner compliance.

The Committee encourages UST owners and operators, as well as DHEC, to provide greater emphasis on release prevention and early detection so as to minimize the number of new releases and their severity when they do occur. Prevention measures are in the best interest of owners and operators, the environment, and the SUPERB Fund.

Leak Rate

Leak rate is defined as the total number of confirmed releases from registered and permitted tanks, divided by the total number of currently in use tanks. For 2013 reporting period, 95 confirmed releases were reported from a tank population of 11,749 operating USTs, calculating a leak rate of 0.81%. This percentage is higher than the 0.69% reported for 2012, but lower than the 0.82% reported for 2010, 0.98% reported for 2009, and 1% reported for 2008.

Legislative Information

House Bill H 3270:

An actuarial study of the SUPERB fund, completed in March 2007, listed the current liabilities of the fund at \$153 million and estimated future liabilities at \$373 million. The fund was projected to have a negative balance of \$32 million at the scheduled sunset date in 2026. The EPA has voiced concerns about solvency of the SUPERB fund since the late 1990's in mid-year and year-end grant reviews provided to DHEC, and in September of 2006 DHEC received official notice from EPA Region IV that the SUPERB Fund is in danger of being declared insolvent. The result of insolvency would be the disapproval of the SUPERB fund as an accepted financial responsibility mechanism, requiring UST owners and operators to obtain alternate coverage for their required minimum of \$1 million in liability coverage to pay for cleanup and third party damage claims, per occurrence.

DHEC consulted with South Carolina Petroleum representatives and ultimately developed a funding solution with EPA Region 4, EPA Headquarters Office of Underground Storage Tanks, and the SUPERB Advisory Committee. The solution proposed in October 2007 was to acquire an additional \$8 million per year over five years to move the SUPERB fund toward being a viable financial responsibility mechanism. This \$40 million was in addition to the \$5 million special appropriation received in November 2007 for state FY 2008. During 2008, the petroleum industry was successful in securing an additional \$4 million for the SUPERB fund above the expected impact fee revenue; therefore, the SUPERB funding solution as proposed in October 2007, required an additional \$36 million. In January 2009, Bill H. 3270 was introduced through industry-led efforts to address SUPERB solvency by amending Section 44-2-60 Code of Laws of South Carolina, relating to the registration of underground storage tanks so as to establish new annual renewal fees and to require that the additional revenue generated from the tank fee increases be deposited into the SUPERB

account. Bill H.3270 was signed by the Governor and made effective on May 19, 2010. Considering the continued budget challenges faced by South Carolina, DHEC views this industry-led effort as a resolution to the long-term funding solution for the SUPERB account. The EPA fully endorsed the funding solution incorporated in the 2010 legislation to address the solvency of SUPERB.

Beginning January 1, 2012, the amended SUPERB Act increased annual tank fees by \$100 each year over four years, ultimately reaching \$500 per tank, and maintains the fee at this level until an additional \$36 million is generated and deposited into the SUPERB account. When the SUPERB account is credited with the additional \$36 million, the annual tank fee will revert back to \$100 per tank the following January. DHEC will not be allowed to use any of the additional tank fee revenue for administration of the UST Program or for orphan sites as defined in 44-2-20(11). The additional monies will be collected following the June 1, 2012 billing cycle for tank fees. Revenues of \$1,135,120.00 were collected in the calendar year 2012 attributed to the \$100 fee increase per tank. Revenues of \$2,307,586.36 were collected in the calendar year 2013 attributed to the \$200 fee increase per tank.

Calendar Year	Fee Increase/Year	Expenditures	Revenues	Balance*
				\$36,000,000.00
2012	\$100	\$0	\$1,135,120.00	\$34,864,880.00
2013	\$200	\$3,391,441.09	\$2,307,586.36	\$32,557,293.64

*Remaining to be collected for Bill H.3270

House Bill H. 4501:

The Division establishes and periodically updates maximum allowable costs for compensation of site rehabilitation activities at eligible UST sites. After a public comment period from August 23, 2013 through September 6, 2013, the Agency published revised SUPERB Allowable Costs on November 1, 2013. Following the publication and implementation of the revised SUPERB Allowable Costs, House Bill 4501 to amend Section 44-2-40 of the SUPERB Act was introduced and referred to the Committee on Agriculture, Natural Resources and Environmental Affairs on January 15, 2014. See Attachment 1 for Bill H. 4501.

Proposed Revisions to Federal Regulations

EPA's proposed revisions to the federal UST regulations Part 280 and 281 were published in a November 8, 2011 Federal Register Notice and made available for a public comment period. The deadline to submit comments was February 16, 2012 which was extended by 60 days until April 16, 2012. Major revisions pertain to incorporating the provisions of the Energy Policy Act of 2005, inclusion of tanks that were deferred in the 1988 version and to update the regulations with new and recent information related to regulating UST systems. These revisions will help improve prevention and detection of UST releases, which are one of the leading sources of groundwater contamination. Areas where revisions are proposed include: updating codes of practice, operator training requirement, secondary containment requirements, removing deferrals, notification process,

addressing compatibility issues, interstitial monitoring, upgrade requirements, state approval program requirements, etc. As of December 31, 2013, the proposed regulations and comments received continue to be reviewed by USEPA.

Operator Training

In keeping with the requirements of the Energy Policy Act of 2005 and UST Control Regulations R.61-92, Part 280.35, 350 new A/B operators were trained in South Carolina during the 2013 calendar year. An additional 15 individuals completed the training course for use in other states (Florida, Georgia, Mississippi, Alabama, Utah, Arizona, Tennessee, Virginia, Maryland, Ohio, New Jersey, North Carolina, and Massachusetts). Retraining is another requirement for operator training. Of the 3,738 inspections performed this past year, approximately 30% involved retraining (1,131 retraining events). The majority of these took place at the time of the inspection. If the A/B operator was not present at the time of the inspection, retraining was completed using the online training program. Currently, the online training program is offline for security issues. Because of this, training for new A/B operators and some retraining consists of a site visit or phone call by a staff member to administer the training.

Electronic Inspections

In April 2013, DHEC began development of a custom electronic inspection program that will be used to inspect all UST facilities in South Carolina. With implementation of this electronic system, the DHEC will benefit through paperless operations, improved data quality, and fewer man hours necessary to transfer data into the database. The system is designed to incorporate the existing regulatory requirements of the Agency and to enhance the reporting capabilities to stakeholders (owners/operators). Owners and operators will now have the option to receive their inspection results via email at the time of inspection. In August of 2013, sixteen fully functional Panasonic tablets were purchased and distributed to each regional inspector. Funding for this project was provided by EPA Region 4. State wide deployment began in December of 2013.

Secondary Containment Requirement

In accordance with UST Control Regulation R.61-92, Part 280.25, not later than December 22, 2018, all UST systems located within 100 feet of an existing water supply well, a coastal zone critical area, or state navigable waters must be either secondarily contained or permanently closed. DHEC has determined that approximately 367 facilities located in coastal zone critical areas and/or near state navigable waters may be affected by the implementation of this regulation. In an effort to identify single walled UST systems located within 100 feet of a water supply well, DHEC distributed a questionnaire on November 5, 2013, to owners and operators of 3,429 UST systems. The owners were asked to identify if a water supply well was located within 100 feet of any portion of their UST system. The questionnaire was distributed by standard mail, E-mail, and facsimile. DHEC received responses from owners and operators of 1,791 UST systems. Results of this questionnaire, as well as data collected during regular compliance inspections, indicate there are approximately 71 facilities known at this time to that have a water supply well located within 100 feet of any part of the UST

system. In practicality, the affected systems will have to be modified to meet secondary containment requirements or permanently closed by December 22, 2018. DHEC will include information about the upcoming regulation on our web site and will publish several articles in the UST newsletter. Continued efforts to inform the regulated community will be made as the deadline approaches.

Recommendations

Recommendations approved during the Monday, February 10, 2014 SAC meeting are:

Agency should prioritize getting online services restored to include Operator Training, UST Registry and UST Locator Service.

Agency should hire additional staff to oversee the remaining confirmed releases.

Appendix 1

SUPERB Eligible Releases by Risk Category

As of December 31, 2013 as compiled on January 2, 2014

Risk Category	Open Releases			
	2013	2012	2011	2010
1	152	160	177	190
2A	105	114	124	128
2B	797	818	876	912
3A	46	47	50	64
3B	818	879	915	948
4A	204	182	189	188
4B	128	134	132	145
5	122	137	136	148
Total	2,372	2,471	2,599	2,723

Risk Category Definitions:

- Category 1 Emergency
- Category 2A Threat to human health or environment is predicted to be less than 1 year
- Category 2B Drinking well identified less than 1,000 feet away
- Category 3A Threat to human health or the environment is predicted to be 1 to 2 years
- Category 3B Release in shallow groundwater with migration expected
- Category 4A Threat to human health or the environment is predicted to be greater than 2 years
- Category 4B Release in shallow groundwater with minimal migration expected
- Category 5 Data currently inconclusive

Appendix 2

SUPERB Eligible Releases by Risk Category and County as of December 31, 2013 as compiled on January 2, 2014

County	Risk Category								Total
	1	2A	2B	3A	3B	4A	4B	5	
Abbeville	1	1	12	0	2	3	3	0	22
Aiken	1	1	13	1	10	3	3	7	39
Allendale	0	0	3	0	9	0	1	2	15
Anderson	2	1	21	0	36	9	1	5	75
Bamberg	0	1	10	0	5	1	1	0	18
Barnwell	0	3	13	1	6	1	0	1	25
Beaufort	2	2	10	2	9	1	0	0	26
Berkeley	1	0	13	1	20	0	2	0	37
Calhoun	0	0	1	0	4	1	1	0	7
Charleston	1	0	12	0	63	0	2	3	81
Cherokee	2	1	14	0	7	3	3	0	30
Chester	3	2	11	1	13	3	2	3	38
Chesterfield	1	2	7	1	9	1	1	2	24
Clarendon	3	1	29	2	19	0	4	6	64
Colleton	2	3	14	0	6	0	0	1	26
Darlington	1	0	21	1	20	1	6	3	53
Dillon	7	1	12	1	11	0	3	1	36
Dorchester	3	0	15	1	25	1	1	0	46
Edgefield	0	1	5	1	4	1	1	3	16
Fairfield	5	1	8	0	2	0	0	1	17
Florence	6	7	43	2	52	4	12	2	128
Georgetown	2	1	9	1	15	0	0	1	29
Greenville	7	9	41	2	61	38	18	16	192
Greenwood	4	2	19	1	4	10	4	1	45
Hampton	0	3	13	0	7	0	2	4	29
Horry	9	10	47	11	64	0	3	4	148
Jasper	1	4	19	2	7	0	0	1	34
Kershaw	0	4	11	0	7	3	1	2	28
Lancaster	5	2	21	4	14	6	11	0	63
Laurens	2	0	25	0	9	19	1	2	49
Lee	2	3	6	0	1	0	0	0	12
Lexington	5	2	27	2	41	7	7	7	98
Marion	1	0	22	1	16	0	0	2	42
Marlboro	5	2	14	0	10	1	1	1	34
McCormick	2	0	5	0	6	1	0	1	15
Newberry	3	2	17	0	11	4	4	2	43
Oconee	2	3	8	1	2	5	0	0	21
Orangeburg	8	5	28	1	28	1	2	2	75
Pickens	1	0	7	0	4	7	1	0	20
Richland	16	7	37	0	35	12	5	1	113
Saluda	3	0	2	0	9	0	1	0	15
Spartanburg	6	4	26	4	61	48	13	8	170
Sumter	4	1	40	0	23	0	1	3	72
Union	1	2	2	0	5	0	0	2	12
Williamsburg	5	6	21	1	16	1	2	1	53
York	19	5	41	0	29	16	4	2	116

Risk Category Definitions:

- Category 1 Emergency
- Category 2A Threat to human health or environment is predicted to be less than 1 year
- Category 2B Drinking well identified less than 1,000 feet away
- Category 3A Threat to human health or the environment is predicted to be 1 to 2 years
- Category 3B Release in shallow groundwater with migration expected
- Category 4A Threat to human health or the environment is predicted to be greater than 2 years
- Category 4B Release in shallow groundwater with minimal migration expected
- Category 5 Data currently inconclusive

Appendix 3

SUPERB Eligible Releases by Risk Category Work Ongoing or Not Currently Working As of December 31, 2013 as compiled on January 2, 2014

Risk Category	Work Currently Ongoing With SUPERB Funds or under the \$25,000 Deductible ¹	Not Currently Working Awaiting SUPERB Funding or under the \$25K Deductible
1	152	0
2A	72	33 ²
2B	558	239 ²
3A	24	22 ²
3B	544	274 ³
4A	98	106 ⁴
4B	49	79 ⁴
5	53	50 ⁴
Total	1550	803

In accordance with the SUPERB Site Rehabilitation and Fund Access Regulations R.61-98, Section II.B., UST releases, regardless of its time of occurrence, shall be classified accordingly:

Category 1 Emergency

Category 2A Threat to human health or environment is predicted to be less than 1 year

Category 2B Drinking well identified less than 1,000 feet away

Category 3A Threat to human health or the environment is predicted to be 1 to 2 years

Category 3B Release in shallow groundwater with migration expected

Category 4A Threat to human health or the environment is predicted to be greater than 2 years

Category 4B Release in shallow groundwater with minimal migration expected

Category 5 Data currently inconclusive

¹SUPERB funds are available for the current scope of work and ongoing site rehabilitation activities (e.g., IGWA, Tier I, Tier II, AFVR, MNA, ACA) based on high priority or anticipation of a cleanup complete measure. Includes releases where the Owner/Operator is conducting activities under the deductible (includes a subset of 195 releases where the \$25,000 deductible has not been met).

²SUPERB funds are available for the next scope of work but currently no site rehabilitation work is funded (e.g., awaiting a decision from the owner/operator, between active scopes of work with new work pending process review and funding, ongoing enforcement actions, RP resolutions, etc.). This number may include the subset of 195 releases working strictly under the \$25,000 SUPERB deductible. However, all \$25,000 deductible sites are being actively worked or pursued to start work.

³SUPERB funds may become available for the next scope of work for some of these lower risk category releases.

⁴SUPERB funds are not currently available for these lowest risk category releases. No site rehabilitation activities are ongoing. Site rehabilitation will be initiated as funds become available.

South Carolina Legislature

tanks found 6 times.

H 4501 Session 120 (2013-2014)

H 4501 General Bill, By Hiott

A BILL TO AMEND SECTION 44-2-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SUPERB ACCOUNT AND THE SUPERB FINANCIAL RESPONSIBILITY FUND ESTABLISHED TO ASSIST IN CARRYING OUT THE PURPOSES OF THE STATE UNDERGROUND PETROLEUM ENVIRONMENTAL RESPONSE BANK ACT, SO AS TO DEFINE "USUAL, CUSTOMARY, AND REASONABLE COSTS", OF SITE REHABILITATION OF RELEASES FROM UNDERGROUND STORAGE **TANKS** CONTAINING PETROLEUM, AS PAYMENTS NOT LESS THAN THE JULY 1, 2011, SUPERB ALLOWABLE COST REIMBURSEMENT SCHEDULE AND TO FURTHER PROVIDE FOR THE USE AND APPLICATION OF THIS REIMBURSEMENT SCHEDULE.

01/15/14 House Introduced and read first time
01/15/14 House Referred to Committee on Agriculture, Natural Resources and Environmental Affairs

VERSIONS OF THIS BILL

1/15/2014

H. 4501

A BILL

TO AMEND SECTION 44-2-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SUPERB ACCOUNT AND THE SUPERB FINANCIAL RESPONSIBILITY FUND ESTABLISHED TO ASSIST IN CARRYING OUT THE PURPOSES OF THE STATE UNDERGROUND PETROLEUM ENVIRONMENTAL RESPONSE BANK ACT, SO AS TO DEFINE "USUAL, CUSTOMARY, AND REASONABLE COSTS", OF SITE REHABILITATION OF RELEASES FROM UNDERGROUND STORAGE **TANKS** CONTAINING PETROLEUM, AS PAYMENTS NOT LESS THAN THE JULY 1, 2011, SUPERB ALLOWABLE COST REIMBURSEMENT SCHEDULE AND TO FURTHER PROVIDE FOR THE USE AND APPLICATION OF THIS REIMBURSEMENT SCHEDULE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44-2-40(A) of the 1976 Code is amended to read:

"(A) There is created within the state treasury two separate and distinct accounts which ~~are to~~ must be administered by the Department of Health and Environmental Control. These accounts, the 'Superb Account' and the 'Superb Financial Responsibility Fund', are created to assist owners and operators of underground storage **TANKS** containing petroleum and petroleum products to the extent provided for in this chapter but not to relieve the owner or operator of any liability that cannot be satisfied by the provisions of this chapter.

The Superb Account must be used for payment of usual, customary, and reasonable costs for site rehabilitation of releases from underground storage **TANKS** containing petroleum or petroleum products. For the purposes of this chapter, 'usual, customary, and reasonable costs' of site rehabilitation means payments not less than the July 1, 2011, SUPERB Allowable Cost reimbursement schedule. If the current rate schedule does not comply with this definition the current rate schedule must be immediately

amended. Site rehabilitation work currently in progress must be reimbursed at the July 1, 2011, rates upon completion of work. The July 1, 2011, SUPERB Allowable Cost reimbursement rates remain in effect until the sunset date of the SUPERB Act of 1988, or any extended sunset date, and must be adjusted annually for inflation.

The Superb Financial Responsibility Fund must be used for compensating third parties for actual costs for bodily injury and property damage caused by accidental releases from underground storage tanks containing petroleum or petroleum products. The Superb Financial Responsibility Fund must not be used for reimbursing claims for punitive damages.

Except for releases reported before July 1, 1994, sites where the underground storage tank, at the time of discovery and reporting of the release to the department, is not in substantial compliance with regulations promulgated pursuant to Section 44-2-50(A), are not eligible for compensation from the Superb Account, and no third party claims resulting from that release may be paid from the Superb Financial Responsibility Fund."

SECTION 2. This act takes effect upon approval by the Governor.

---XX---

Legislative Services Agency
<http://www.scstatehouse.gov>